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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/752,398      | 01/05/2004  | Christopher N. Gab   | 3172 PUS            | 3585             |

7590 10/13/2006  
Konstantine J. Diamond  
4010 E. 26th Street  
Los Angeles, CA 90023

| EXAMINER |
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AYRES, TIMOTHY MICHAEL

| ART UNIT | PAPER NUMBER |
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3637

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/752,398

Applicant(s)

GAB, CHRISTOPHER N.

Examiner

Timothy M. Ayres

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

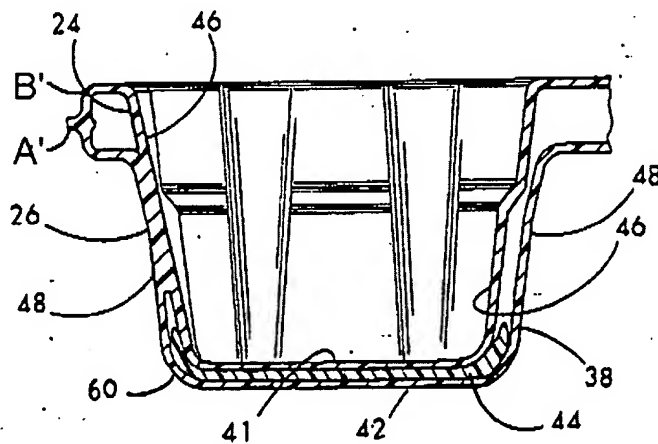
**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. Claims 1-3 and 5-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,046,434 to Breezer in view of Japanese Patent 2001-270,525 to Ishizuka Glass. Breezer 'teaches a pallet (20) with a deck (22) formed from an upper panel (24) and a lower panel (26). The upper panel (22) makes up an upper surface and has a plurality of openings (50). The lower panel (26) extends the plurality of supports (38) as seen in figure 6 below so that each support (38) aligns with an opening (50) (Col. 3, line 37-39). The pallet (20) is a nestable pallet (Col. 3, line 42-52). A projection (A') extends outwardly from the edges (B') of the deck (22). The corners (40) of the pallet (20) are rounded as seen in figure 1.

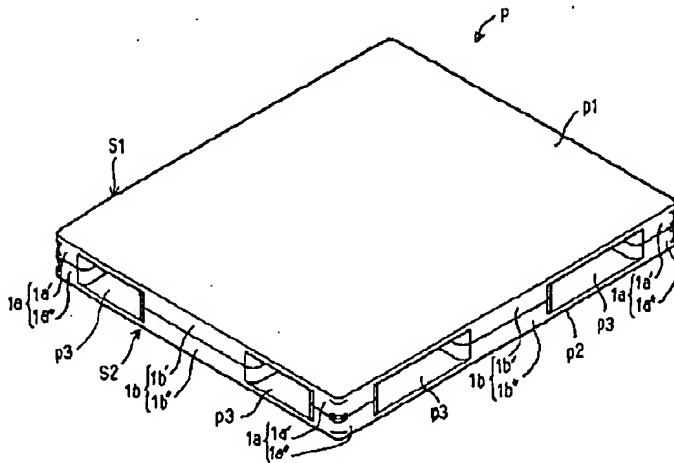


Breezer '434 Figure 6

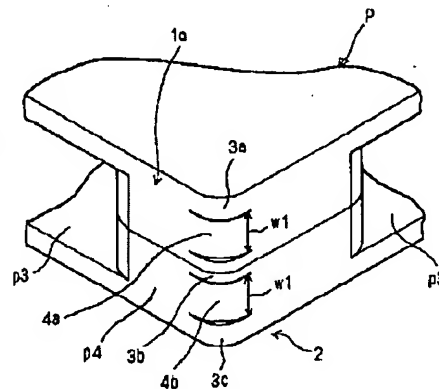
2. Breezer does not expressly disclose the projection not being continuous about a periphery of the deck, the upper surface of the projection flush with the upper surface of the deck, and the projection not extending past the side edges or past the end edges.

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3. Ishizuka teaches a pallet (P) with a deck having an upper surface (p1) for supporting goods (A) as seen in figures 1 and 5. The upper surface (p1) is substantially bounded outwardly by side edges, end edges and corner edges between the side edges and end edges as seen in figure 1. A plurality of supports (1a, 1b) extends downward from the deck. At least one projection (3a) extends outward from the rounded corner edge as seen in figure 6.

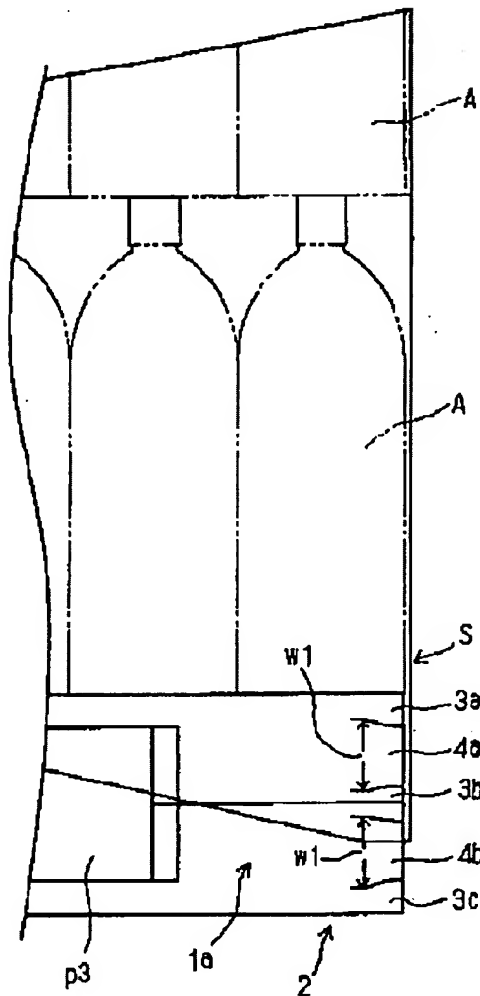


Ishizuka '525 Figure 1

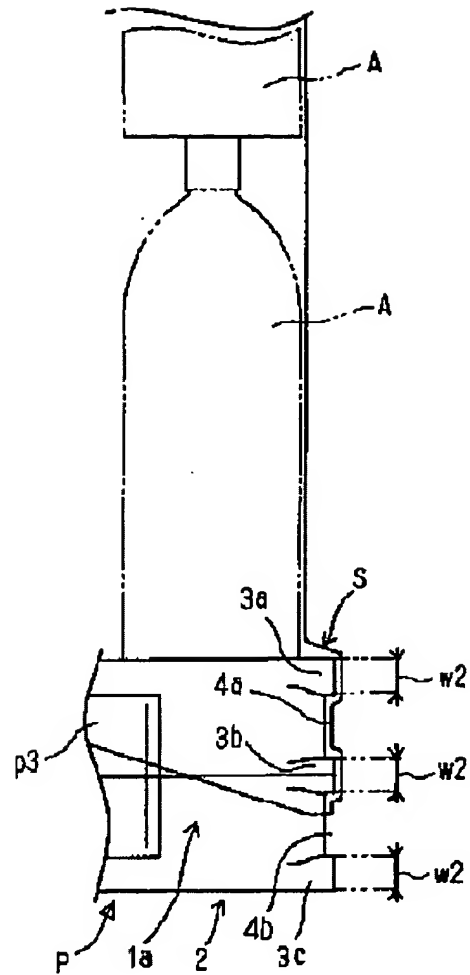


Ishizuka '525 Figure 6

4. The upper surface of the projection (3a) is flush with the upper surface (p1) of the deck as seen in figure 4. The plurality of goods (A) on the upper surface (p1) is wrapped with a wrap (S) to at least partially go around an edge adjacent to the projection (3a) as seen in figures 3 and 5. The projection (3a) does not extend outwardly past the side edges or past the end edges as seen in figure 3.



Ishizuka '525 Figure 3



Ishizuka '525 Figure 4

5. At the time of the invention it would have been obvious to modify the pallet of Brezzer by replacing the projection with one as taught by Ishizuka to hold shrink wrap on the corner of the pallet better.

### ***Response to Arguments***

Applicant's arguments filed 8/23/06 have been fully considered but they are not persuasive. Breezer does teach a peripheral lip (28) that is continuous around the periphery of the load-bearing member (22). The lip (28) is formed when the sheets are joined together. The lip (28) is necessary during manufacturing of the pallet, but after manufacturing, the lip (28) has no function. As seen in figure 6 there is plenty of material at the joint that removing the lip will not weaken the structure. It therefore can be removed, either by sanding, grinding, cutting, or other known and common method. This is commonly done in plastic molding where runners and sprues always have to be removed from parts once manufactured. Thereby the lip/projection can be removed and then replaced by the projection that is taught by Glass.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

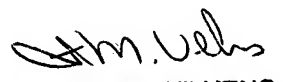
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA  
10/03/06



JANET M. WILKENS  
PRIMARY EXAMINER  
Art Unit 3637